

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

BASITO INVESTMENTS, LLC,  
Plaintiff,

vs.

MARTIN W. RIVERS,  
Defendant.

Case No. 16-CV-494-FHM

**OPINION AND ORDER**

Plaintiff's Motion to reconsider and Reinstate Case, [Dkt. 46], is before the court for decision.

On September 11, 2017, the court entered an order dismissing this case without prejudice to refiling under Fed.R.Civ.P. 16(f)(1)(A),(C) for the failure of Plaintiff to appear at the pretrial conference. [Dkt. 45]. In that order, the court pointed out other instances where Plaintiff failed to adhere to the scheduling order, including the failure to submit a pretrial order. The court also pointed out that Plaintiff had been warned that failure to comply with the extended deadline for filing the pretrial order would result in dismissal of the case. [Dkt. 37, 45].

There is no question that the court has discretion to dismiss a case for a party's failure to prosecute the case, or for failing to comply with local or federal procedural rules. *AdvantEdge Business Group v. Thomas E. Mestmaker & Assoc.*, 552 F.3d 1233, 1236 (10th cir. 2009). Where, as here, a case is dismissed without prejudice, "a district court may, without abusing its discretion, enter [an order of dismissal] without attention to any particular procedures." *Id.* (quoting *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1162 (10th Cir. 2007)). Contrary to Plaintiff's assertions, the court was not, therefore, required to consider the factors outlined in *Ehrenhaus v. Reynolds*, 965 F.2d 916, 921 (10th

Cir. 1992) which must be addressed when the harsh remedy of dismissal with prejudice is employed.

Plaintiff's Motion to reconsider and Reinstate Case, [Dkt. 46], is DENIED.

SO ORDERED this 3rd day of November, 2017.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE